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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,990	04/03/2001	Masahito Yamamoto	35.C15271	9692
5514	7590	05/15/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			SALL, EL HADJI MALICK	
30 ROCKEFELLER PLAZA				
NEW YORK, NY 10112			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/823,990	YAMAMOTO, MASAHIRO	
	Examiner	Art Unit	
	El Hadji M. Sall	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21,29-31 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21,29-31 and 39-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed on February 27, 2006. Claims 1-21, 29-31 and 39-46 are pending. Claims 1, 8-11, 19-21, 29-31 and 39-40 are amended. Claims 22-28, 32-38 and 47-52 have been cancelled. Claims 1-21, 29-31 and 39-46 represent Service Management apparatus for managing service information for services present in network system and apparatus for instructing service management apparatus.

2. ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-6, 9, 11-16, 19, 21, 29, 31 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Schneider U.S. 6,215,855.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 1, Saito teaches a service management apparatus for use in a network system, for managing service information of a service provided by a service apparatus and transferring the managed service information to an external apparatus in response to a request from the external apparatus, said service management apparatus comprising:

evaluation means for evaluating the quality of the service, based on a result of the trial use of the service executed by said test means (column 11, lines 16-23; column 14, lines 50-51; column 6, lines 3-8, Saito discloses quality of service evaluation and measurement of traffic, is utilized in networks such as ATM to transmit data units identified by specific header); and

renewal means for renewing the managed service information based on the evaluated quality renewal means for renewing the managed service information based on the evaluated quality evaluated by said evaluation means (column 11, lines 24-27);

Saito fails to teach explicitly test means for executing a process of a trial use of the service provided by the service apparatus, wherein, in the trial use, said test means sends data to the service by using an operation of the service.

However, Schneider teaches loop certification and measurement for ADSL. Schneider teaches test means for executing a process of a trial use of the service provided by the service apparatus, wherein, in the trial use, said test means sends data to the service by using an operation of the service (column 16, lines 5-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Saito in view of Schneider to provide test means for executing a process of a trial use of the service provided by the service apparatus, wherein, in the trial use, said test means sends data to the service by using an operation of the service. One would be motivated to do so to allow certifying the tested line for use on that service (abstract).

As to claim 2, Saito teaches a service management apparatus according to claim 1, wherein said evaluation means evaluates the result of the trial use of the service executed by said test means by a predetermined evaluation function (see abstract, Saito discloses the estimated arrival times at the attention point, produced by the arrival time estimation section, according to a predetermined logic equation).

As to claim 3, Saito teaches a service management apparatus according to claim 2, wherein said renewal means deletes the managed service information in case the evaluation by the predetermined evaluation function does not meet a predetermined reference (column 11, lines 48-54, Saito discloses the cell info register 302 is written to

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the readout register 303. CPU 215 reads the content of the readout register 303. The object VPI/VCI in the cell info register 302 is deleted).

As to claim 4, Saito teaches a service management apparatus according to claim 2, wherein the predetermined evaluation function evaluates the quality of the service based on the time required for calling the service (column 3, lines 20-35, Saito discloses in this case, the estimating section may include means for estimating an arrival time, and where said estimated arrival time of said first cell is given by a sum of base time T).

As to claim 5, Saito teaches a service management apparatus according to claim 2, wherein the predetermined evaluation function evaluates the quality of the service based on an error frequency of generated by a service calling (column 19, lines 56-66, Saito discloses the low layer processing section 4, first performs such tasks as taking out cells from SDH frame and error correction using HEC and sends the cells to the state managing section).

As to claim 6, Saito teaches a service management apparatus according to claim 1, wherein:

said test means executes an access process for writing data to a storage service and reading data from the storage service on a trial basis (column 11, lines 42-54, Saito discloses writing result to the readout register 303, and the content of the readout register 303 is read by the CPU 215).

said evaluation means evaluates the quality of the storage service based on the result of the access process performed by said test means (column 14, lines 43-49, Saito discloses when M timer values are obtained, CPU 1021 calculates average packet arrival interval A, standard deviation S for packet arrival intervals, average packet length LA).

As to claim 9, Saito teaches a service management apparatus for managing service information of a service on a network system and transferring the managed service information to an external apparatus in response to a request from the external apparatus in response to a request from the external apparatus, said apparatus comprising:

evaluation means for evaluating the quality of the service, based on a result of the trial use of the service executed by said test means (column 11, lines 16-23; column 14, lines 50-51; column 6, lines 3-8, Saito discloses quality of service evaluation and measurement of traffic, is utilized in networks such as ATM to transmit data units identified by specific header)

deletion means for instructing, in a case the quality evaluated by said evaluation means does not meet a predetermined reference, the service management apparatus to delete the service information related to said apparatus and to the other apparatus from said service management apparatus (column 7, lines 3-10).

Saito fails to teach explicitly test means for executing a process of a trial use of a service of another apparatus belonging to the same group as that of said apparatus, wherein, in the trial use, the service of the other apparatus is executed.

However, Schneider teaches test means for executing a process of a trial use of a service of another apparatus belonging to the same group as that of said apparatus, wherein, in the trial use, the service of the other apparatus is executed (column 16, lines 5-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Saito in view of Schneider to provide test means for executing a process of a trial use of a service of another apparatus belonging to the same group as that of said apparatus, wherein, in the trial use, the service of the other apparatus is executed. One would be motivated to do so to allow certifying the tested line for use on that service (abstract).

Claims 11-16, 19, 21, 29, 31 and 39 do not teach or define any new limitations above claims 1-6, and 9, and therefore are rejected for similar reasons.

4. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Schneider U.S. 6,215,855, further in view of Kondylis et al. U.S. 6,621,805.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 7, Saito and Schneider teach a service management apparatus according to claim 1.

Saito fails to teach explicitly said evaluation means detects the number of colors or recording sheets available in an imaging service and evaluates the quality of the service based on the number of colors or recording sheets available in the service.

However, Kondylis teaches method and apparatus for multicasting real-time variable bit-rate traffic in wireless ad-hoc network. Kondylis teaches said evaluation means detects the number of colors or recording sheets available in an imaging service and evaluates the quality of the service based on the number of colors or recording sheets available in the service (see abstract; column 12, lines 11-12, Kondylis discloses RCds represents the desired number of receive colors, as estimated by the node based on the current traffic load).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Kondylis to introduce evaluation means detects the number of colors available in an imaging service and to evaluate the quality based on the number of colors available in the service. One would be motivated to do so to prevent packet collisions (see abstract).

Claim 17 does not teach or define any new limitations above claim 7, and therefore are rejected for similar reasons.

5. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Schneider U.S. 6,215,855, further in view of Elliot et al U.S. 5,867,495.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 8, Saito and Schneider teach a service management apparatus according to claim 1.

Saito fails to teach the service apparatus comprises a printer.

However, Elliott teaches system, method and article of manufacture for communications utilizing calling, plans in a hybrid network. Elliot teaches a printer (figure 1, item 30)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Elliot to include a printer in the service apparatus. One would be motivated to do so to allow the QoS evaluation apparatus to print out the monitored and evaluated QoS.

Claim 18 does not teach or define any new limitations above claim 8, and therefore are rejected for similar reasons.

6. Claims 10, 20, 30 and 40-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Schneider U.S. 6,215,855, further in view of Yamamura et al. U.S. 6,028,838.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 10, Saito and Schneider teach an apparatus connected to a service management apparatus for managing service information of a service on a network system and transferring the managed service information to an external apparatus in response to a request from the external apparatus, said apparatus comprising:

evaluation means for evaluating the quality of said service, based on the result of the trial use of the service executed by said test means (column 11, lines 16-23; column 14, lines 50-51).

Saito fails to teach explicitly test means for executing a process of the trial use of a service of another apparatus belonging to a same group as that of said apparatus, wherein in the trial use, an operation of the service of the other apparatus is executed.

However, Schneider teaches test means for executing a process of the trial use of a service of another apparatus belonging to a same group as that of said apparatus, wherein in the trial use, an operation of the service of the other apparatus is executed (column 16, lines 5-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Saito in view of Schneider to provide test means for executing a process of the trial use of a service of another apparatus belonging to a same group as that of said apparatus, wherein in the trial use, an operation of the service of the other apparatus is executed. One would be motivated to do so to allow certifying the tested line for use on that service (abstract).

Saito fails to teach explicitly substitution means for instructing, in case the evaluated quality does not meet a predetermined reference, the service management apparatus to substitute service information of the service provided by said another apparatus with service information provided by said apparatus.

However, Yamamura teaches navigation apparatus. Yamamura teaches substitution means for instructing, in a case the quality evaluated by said evaluation means does not meet a predetermined reference, said service management apparatus to substitute the service provided by said another apparatus with a service provided by said apparatus (column 14, lines 45-47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Yamamura to provide substitution means for instructing, in case the evaluated quality does not meet a predetermined reference, said

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service management apparatus to substitute the service provided by said another apparatus with a service provided by said apparatus. One would be motivated to do so to allow redundancy.

As to claim 41, Saito teaches a service management apparatus according to claim 1.

Saito fails to teach explicitly sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus.

However, Yamamura teaches sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus (column 8, lines 51-62).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Yamamura to provide sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus. One would be motivated to do so to allow proper selection of service.

Claims 20, 30 and 42-52 do not teach or define any new limitations above claims 10, and therefore are rejected for similar reasons.

7. Response to Arguments

Applicant's arguments with respect to claims 1, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

5. Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4010.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall
Patent Examiner
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